



**INDEX TO ADVANCED SERVICES ISSUES (REPLY)**

	<u>Page</u>
Issue III-10: Line Sharing And Line Splitting .....	2
Issue IV-28: Collocation Requirement .....	6

### ADVANCED SERVICES (REPLY)

AT&T and WorldCom's opening briefs do not provide any reasonable basis to reject Verizon VA's line sharing and line splitting proposals, both of which mirror Verizon offerings in other states that, as the Commission has found, comply fully with the requirements of the Act.<sup>1</sup> Indeed, WorldCom has agreed to virtually all of Verizon VA's proposed language, and raises only two narrow issues. In both instances, WorldCom seeks to paraphrase rather than reference applicable law. That is wrong for two reasons. First, the agreement would not reflect the law, but WorldCom's view of the law. Second, it would risk locking the current state of the law (or WorldCom's view of it) into stone through the terms of the interconnection agreement. Instead, the agreement should simply reference the applicable law. This will provide the flexibility to reflect changes in the law or technology in the rapidly evolving area of advanced services. Accordingly, WorldCom's proposed contract language should be rejected.

AT&T, on the other hand, not only wants to chisel its view of the current state of the law into stone, but wants to go further and lock in requirements to do even *more* than the law currently requires. For example, AT&T seeks the ability to collocate equipment that performs a packet switching functionality before making a determination that such equipment qualifies for collocation under Commission rules, and then imposes on Verizon VA the burden of proof that such equipment does not qualify for collocation. Verizon VA's opening Advanced Services brief outlined several deficiencies in AT&T's proposals, and those proposals should be rejected.

---

<sup>1</sup> See generally *MA Verizon § 271 Order*; *CT Verizon § 271 Order* ; *PA Verizon § 271 Order*.

**I. Issue III-10**

**A. The Commission Should Reject AT&T's Proposals For Line Sharing And Line Splitting.**

For both line sharing and line splitting, AT&T proposes to eliminate all operational details from the interconnection agreement, and instead to include a provision that would simply import into Virginia any and all results from New York—including any orders issued by the New York Commission in litigated proceedings, unless AT&T disagrees with them. This one-sided proposal to automatically import New York Commission orders into Virginia should be rejected.

As an initial matter, AT&T's proposal to eliminate all operational details from the agreement fails to recognize a key difference between line sharing and line splitting. The reality is that line sharing has been available for some period of time, and Verizon's line sharing and line splitting products reflect the results of both the NY DSL Collaborative's discussions on these issues and Verizon's experience with data providers since 1999. Moreover, the contract language proposed by Verizon VA is the same that is used in many states to provide line sharing to CLECs, including those states where the Commission found that Verizon is providing line sharing in compliance with the Act and the Commission's rules.<sup>2</sup> Accordingly, that same language should be adopted in its entirety in Virginia as well.

In contrast, line splitting is a new product with more complex and less settled operational issues and carrier relationships than line sharing. Recognizing the complexities surrounding line splitting, the Commission's *Line Sharing Reconsideration Order* urged ILECs and CLECs to work together to develop processes and systems to support line splitting arrangements, OSS, and

---

<sup>2</sup> See *MA Verizon § 271 Order* ¶ 165; *CT Verizon § 271 Order* ¶ 23; *PA Verizon § 271 Order* ¶ 78.

loop qualification issues.<sup>3</sup> While the Commission previously has recognized that Verizon's current line splitting offerings satisfy its legal obligations, Verizon nonetheless continues to work with interested parties in the ongoing New York DSL Collaborative to address operational details, and proposes here to adopt any results reached through consensus in that collaborative process. AT&T, however, proposes to go further and automatically adopt "*all* outputs of the New York DSL process" in Virginia, which AT&T defines to include "tariffs and orders of the New York PSC, unless AT&T agrees otherwise, or unless the Virginia Commission that [*sic*] directs a different result." AT&T's proposed Schedule 11.2.17 § 1.5.1 (emphasis added).

AT&T's approach goes too far.<sup>4</sup> There simply is no basis (and AT&T points to none) to force Verizon VA automatically to accept a litigated result from another state and effectively forego its rights under the First and Fifth Amendments to argue in good faith for a different result in Virginia.

Moreover, even apart from the legal barrier to adopting AT&T's proposal, it would make no sense from a policy standpoint blindly to import all decisions from another state into Virginia. While it is generally reasonable to implement in Virginia the results of a *consensus* reached on an issue through an industry forum in New York, it would be unreasonable to import an involuntary result without examining the implications of importing those terms and conditions. Regulatory decisions are not made in a vacuum. Decisions from one state Commission should

---

<sup>3</sup> *Line Sharing Reconsideration Order* ¶¶ 21, 22 n. 41.

<sup>4</sup> AT&T tried to justify its proposal by claiming that line splitting is its "principle market entry vehicle." AT&T Brief at 157. AT&T's own actions in New York, however, belie its assertions on the role of line splitting in its market strategy. Despite its prediction of thousands of orders for line splitting, AT&T has placed very few orders since line splitting became available on a pilot basis in New York. *See* Verizon VA Exhibit 41; Tr. Tr. 769, 774.

not be blindly adopted in another without an understanding of the context in which they were made. AT&T's Schedule 11.2.17 should be rejected in its entirety.

**B. Verizon VA's "Applicable Law" Language Adequately Provides AT&T And WorldCom With The Protections They Seek.**

Both AT&T and WorldCom take issue in varying degrees with Verizon VA's proposal to ground its contractual obligations in applicable law. Their claims are misplaced. The fact is that Verizon VA's proposal ensures that it is required throughout the life of the agreement to comply with the governing legal requirements, and does so without repeating or paraphrasing the law in a way that will quickly date the agreements or require constant revision or amendments. If any aspect of the agreement and the applicable law are at odds, applicable law takes precedence. This gives explicit guidance to the parties as to what is and is not required in the event the governing law changes, and avoids the administrative burden on Verizon VA and other parties alike of changing every contract that it has with CLECs when the law changes. Verizon VA will comply with applicable law. Verizon VA cannot, however, be forced to obligate itself through the interconnection agreement beyond the requirements of applicable law.

In contrast, AT&T and WorldCom's proposals to paraphrase or parrot the state of the law today (even if they were accurate) do not account for the possibility of a modification in the law. This defect is particularly problematic in the context of advanced services, where the ground rules are still developing. Indeed, the Commission currently has several proceedings underway in which it is examining issues relating to advanced services, and has announced that it is about to initiate others. Moreover, AT&T and WorldCom's approach does not even accurately reflect existing law, but instead attempts to import AT&T or WorldCom's "spin" on existing law. AT&T's proposed Schedule 11.2.17 should be rejected in its entirety, as should WorldCom's proposed § 4.10 to the UNE Attachment.

**C. The Commission Should Either Adopt Verizon VA's Sub-Loop Language Or Defer Consideration Of Both AT&T's And Verizon VA's Language Until The Commission Address Issues Relating To NGDLC.**

While AT&T proposes to defer consideration of Verizon VA's proposed sub-loop language (until the Commission addresses issues relating to access to Next Generation Digital Loop Carrier),<sup>5</sup> AT&T does not propose to defer its own sub-loop language contained in Schedule 11.2.14. This is nothing more than a transparent effort to impose its own proposal for some indefinite period until the Commission addresses Verizon VA's proposals.

AT&T's attempted sleight of hand should be rejected. As an initial matter, if the Commission defers consideration of Verizon VA's sub-loop proposals as AT&T proposes, it should also defer consideration of AT&T's sub-loop proposals as well. The result, however, would be that the interconnection agreement will not provide for ordering and provisioning of sub-loops.

Rather than defer the issue entirely, the better approach is to adopt Verizon VA's proposal. The Commission has already concluded that Verizon's unbundled subloop offering fulfills its obligations under the Act and Commission rules.<sup>6</sup> AT&T's proposals, in contrast, seek to impose more upon Verizon VA than is legally required. *See Verizon VA UNE Brief at 42-54.* Accordingly, the Commission should adopt Verizon VA's sub-loop proposals in its interconnection agreement with AT&T and should reject AT&T's proposal.

---

<sup>5</sup> AT&T cites Verizon VA's sub-loop language as §§ 11.2.18.6.3 through 14 and 11.2.18.7 through 7.6. However, Verizon VA's sub-loop language is actually contained in §§ 11.2.14, *et. seq.*

<sup>6</sup> *See Massachusetts Order ¶¶ 154-155.*

## II. Issue IV-28: Collocation Requirement

Nothing in WorldCom's opening brief justifies extending this Commission's jurisdictional boundaries or ignoring principles of comity in light of the fact that the Virginia Commission currently has a proceeding underway to address collocation issues. For the reasons outlined in Verizon VA's opening brief, therefore, the Commission should defer any collocation-related issues in this arbitration to the Virginia Commission's open collocation proceeding. *See* Verizon VA Advanced Services Brief at 10-13.

Moreover, there simply is no need for the Commission to resolve these issues here. WorldCom's claim is based on the assertion that because Verizon and others have appealed the Commission's most recent collocation order, "lawlessness" will prevail in Virginia unless the Commission adopts its proposed collocation language. This claim is simply wrong. First, Verizon VA's proposed collocation language contractually binds Verizon VA to provide collocation consistent with the requirements of applicable law and its governing tariffs.<sup>7</sup> This includes the terms of the Commission's most recent collocation order, unless and until those rules are stayed, overturned or otherwise modified. Indeed, as WorldCom is well aware, the Commission's recently adopted collocation rules took effect on September 28, 2001, and on that same date Verizon VA filed amendments to its intrastate collocation tariffs. The Virginia Commission expressly adopted these amendments in the *Virginia Collocation Order*. Under Virginia Code § 56-480, once approved by the Virginia Commission, Verizon VA's tariffs have the same effect as an administrative rule of law.

Thus, Verizon VA's proposed contract language will not lead to "lawlessness." Verizon VA's proposed contract language will, however, permit the contract to incorporate any change in

---

<sup>7</sup> Verizon VA proposed § 13.0 to the Collocation Attachment to the WorldCom contract.

applicable law in the event the Commission's collocation rules are stayed, overturned, or modified—whether as a result of Verizon VA's lawful appeal or any other judicial, legislative, or administrative action—without resort to a drawn-out amendment process. Accordingly, Verizon VA's proposed § 13.0 should be adopted.<sup>8</sup>

---

<sup>8</sup> Contrary to WorldCom's assertions, while Verizon VA agreed in principle with WorldCom that Verizon VA would permit collocation of equipment as required by applicable law, Verizon VA never accepted WorldCom's proposed language relating to the collocation of advanced services equipment. WorldCom seeks to take advantage of an error in Verizon VA's originally filed Advanced Services Panel Testimony, which was never admitted into the record as an exhibit. Upon discovering the error, Verizon VA immediately notified WorldCom that it had not agreed to the proposed language, and WorldCom could not identify any Verizon VA employee that had formally accepted WorldCom's proposed language. However, WorldCom represents in its opening brief that Verizon VA previously agreed to this language, then "withdrew" this agreement in its corrected testimony. As WorldCom is well aware, this representation is not true.



## **INDEX TO RESALE ISSUES (REPLY)**

	<b><u>Page</u></b>
Issue V-9, IV-84: Resale Of Advanced Services .....	Resale-1
Issue V-10: Resale Of Vertical Services .....	Resale-4

## **RESALE (REPLY)**

### **Issue V-9     DSL/Line Splitting/Line Sharing**

### **Issue IV-84     Offering of DSL Services for Resale Over Local Loops Leased by Competitors**

The Commission has made it clear that in this arbitration it will apply *current law*, not what AT&T or WorldCom argue the law should be. In so doing, the Commission will apply the precedent set in its previous orders implementing the Act. AT&T and WorldCom, however, repeat arguments that the Commission has already rejected relating to the resale of advanced services.

Section 251(c)(4)(A) of the Act requires Verizon VA to offer for resale “any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers. Verizon VA’s proposed AT&T contract § 12.1.1 reflects this requirement by committing Verizon VA to provide to AT&T for resale “Verizon’s Telecommunications Services (As Defined in the Act)” to the extent required by applicable law and subject to and in accordance with the terms and conditions set forth in Verizon’s tariffs.<sup>1</sup>

AT&T and WorldCom seek to impose an additional requirement – that Verizon VA be required to provide resold DSL over unbundled loop facilities. As outlined in Verizon VA’s opening Resale Brief, the Commission, however, has expressly declined to impose such a

---

<sup>1</sup> Contrary to AT&T and WorldCom’s claims, Verizon VA’s proposed contract language permits resale of DSL by a competitive LEC over lines on which the competitive LEC provides voice service through resale of Verizon service. Just as Verizon does in Connecticut and Pennsylvania, Verizon VA makes available to AT&T and WorldCom Verizon’s new “DSL Over Resold Lines” (“DRL”) service, which permits CLECs to resell VADI’s DSL service over Verizon’s resold voice lines. Verizon amended its DRL tariff to include Virginia on November 20, 2001, with an effective date of November 21, 2001.

requirement on several prior occasions.<sup>2</sup> The Commission has specifically declined to impose such a requirement on Verizon in its § 271 proceedings.<sup>3</sup> Most recently, in rejecting similar arguments in its review of Southwestern Bell's § 271 applications in Arkansas and Missouri, the Commission stated "*because Commission precedent does not address the specific facts or legal issues raised here*, we decline to reach a conclusion in the context of this 271 proceeding."<sup>4</sup>

These holdings alone contradict AT&T's and WorldCom's arguments that Verizon VA has a legal obligation to provide resold data over unbundled loop facilities. Moreover, the very nature of unbundled network elements underscores the fallacy of AT&T and WorldCom's claims. When a CLEC obtains a UNE loop or the UNE-P from Verizon, it obtains "exclusive use of that facility."<sup>5</sup> For Verizon VA to resell DSL on such a line, it would have to obtain exclusive control over the high frequency portion of the loop, leaving the CLEC holding only the low frequency portion of the loop, which the Commission has made clear is not a UNE.<sup>6</sup>

---

<sup>2</sup> See *SBC Texas § 271 Order* ¶ 330 (holding that an ILEC "has no obligation to provide xDSL service over . . . [a] UNE-P carrier loop.") ; *Line Sharing Reconsideration Order* ¶ 26 (emphasis added). (rejecting AT&T's arguments that ILECs should be required to provide DSL service to end users who obtain service from a CLEC using UNE platforms, and that under the *Line Sharing Order*, incumbent LECs are not permitted to deny their xDSL services to customers who obtain voice service from a competing carrier where the competing carrier agrees to the use of its loop for that purpose.)

<sup>3</sup> *CT Verizon § 271 Order* ¶ 33; *PA Verizon § 271 Order* ¶¶ 95-96.

<sup>4</sup> *In the Matter of Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Arkansas and Missouri*, CC Docket No. 01-194, Memorandum and Order, FCC 01-338 (rel. November 6, 2001) at ¶ 82 (emphasis added).

<sup>5</sup> *Local Competition Order* ¶ 268; see also *Federa-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶ 160 (1997).

<sup>6</sup> See e.g. *SBC Texas § 271 Order* ¶ 330.

Finally, as discussed in Verizon VA's Brief, at Resale-4, there is no basis in the record to conclude that it is currently technically or operationally feasible to extend Verizon VA's resale obligation beyond the situation in which the CLEC provides voice through resale. As outlined in Verizon VA's Brief, at Resale-2 through -5, the Commission should adopt Verizon VA's proposed resale provisions, and reject AT&T's proposed § 12.1 and the resale of advanced services portion of WorldCom's proposed § 1.2.

## **Issue V-10     Resale of Vertical Features**

AT&T's arguments on this issue are replete with errors and mischaracterizations. Indeed, AT&T never even mentions the real issue. The issue is not whether AT&T can resell vertical features; the issue is whether AT&T is entitled to the wholesale discount if it does so. AT&T's brief does not even mention the wholesale discount, much less discuss whether it applies. Moreover, AT&T entirely fails to explain the basis for its proposal to strike Verizon VA's proposed §§ 12.8.2 and 12.8.5. Accordingly, AT&T's position should be rejected.

- ***The § 252(d)(3) wholesale discount does not apply to the resale of stand-alone vertical features.***

AT&T first asserts that § 251(c)(4) requires Verizon VA to "make available for resale any retail telecommunications service." AT&T Br. at 186. In fact, §251(c)(4) requires Verizon VA "to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers." 47 U.S.C. §251(c)(4). The Commission has made it clear, moreover, that the "Act does not require an incumbent LEC to make a wholesale offering of any service that the incumbent does not offer to retail customers." *Local Competition Order* ¶ 872. The *Local Competition Order*, ¶ 877, also says that the Act does not require the LEC "to disaggregate a retail service into more discrete retail services." As explained in Verizon VA's Brief, at Resale-6 through -11, Verizon VA does not offer vertical features to its retail customers on a stand-alone basis. As a result, §251(c)(4) does not require Verizon VA to make stand-alone vertical features available for resale at wholesale rates.

AT&T's only response to this argument is to assert "that not only is it technically feasible to resell vertical features, ... they are in fact already being resold by Enhanced Service

providers.” AT&T Br. at 187. AT&T’s argument about technical feasibility is a red herring.<sup>7</sup> The question is not whether it is technically feasible for AT&T to resell vertical services; the question – indeed, the only question – is whether AT&T is entitled to the wholesale discount if it resells vertical services on a stand-alone basis. The answer to that question is no, because stand-alone vertical features are not offered *at retail*, and pursuant to § 251(c)(4), the wholesale discount therefore does not apply. In this respect, AT&T’s reference to Enhanced Service Providers is off the mark. As Verizon VA explained in its Brief,<sup>8</sup> when ESPs resell vertical features, they are operating as *wholesalers*. This is consistent with the Commission’s decision regarding the provision of DSL services to Internet service providers. In that situation, the Commission held that “an incumbent LEC offering of DSL services to Internet Service Providers as an input component to the Internet Service Provider’s high-speed Internet service offering *is not a retail offering*.”<sup>9</sup> The Commission also amended its rules “to clarify that advanced services sold to Internet Service Providers as an input component to the Internet Service Provider’s own retail Internet service offering *are not subject to the discounted resale obligations of section 251(c)(4)*.”<sup>10</sup> The D.C. Circuit recently upheld the Commission’s holding

---

<sup>7</sup> AT&T’s argument about technical feasibility is also not supported by the record. AT&T presented no testimony or argument to support a broad conclusory assertion that it is *always* technically feasible to resell vertical features no matter *who* is providing the underlying dial tone service or *how* it is being provided. Indeed, if a CLEC provides basic dial tone service through the use of a UNE-P, Verizon VA could not offer vertical features for resale, because the CLEC would control what features of the switch are offered, not Verizon VA.

<sup>8</sup> Verizon VA Br. at Resale-8 through -9.

<sup>9</sup> *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Second Report and Order, at ¶ 19 (rel. Nov. 9, 1999) (emphasis added).

<sup>10</sup> *Id.* at ¶ 22 (emphasis added).

on this issue. *See Assoc. of Communications Enterprises v. FCC*, 253 F.3d 29 (D.C. Cir. June 26, 2001). By analogy, ESPs, in their capacities as wholesale customers, are purchasing vertical features as input components to a broader retail service ultimately offered to an end-user. Thus, as in the case of DSL offerings, such ESPs are not obtaining the vertical feature at retail.

AT&T's next argues that "[s]ince retail customers can purchase Verizon's dial tone service without purchasing Verizon's vertical features, Verizon's insistence that AT&T - as a reseller - purchase both local dial tone and vertical features can not withstand scrutiny." AT&T Br. at 88. This argument is wrong in a number of respects. Verizon VA has never asserted that AT&T must purchase "both local dial tone and vertical features." Moreover, the pertinent question is not whether retail customers can purchase the *dial tone service* on a stand-alone basis; the pertinent question is whether retail customers can purchase *vertical features* on a stand-alone basis. As noted above, they cannot.

AT&T is similarly wrong in claiming that Verizon VA seeks to impose an unreasonable restriction on the resale of vertical features – "*i.e.*, that they only will be resold with Verizon's dial tone line service." AT&T Br. at 188. As noted above, Verizon VA is not seeking to impose any such restriction.

AT&T may resell both the dial tone line and a vertical service to its customer, and if it does so, it is entitled to the wholesale discount. The issue in this case, however, which AT&T's brief does not address, only involves the situation in which AT&T wants to resell a vertical service on a stand-alone basis to a Verizon VA customer, *i.e.*, when AT&T does not want to resell the dial tone line. *AT&T may also do that*, in the same manner that Enhanced Service Providers ("ESPs") do, but neither is entitled to the wholesale discount.

- *AT&T provides no basis to strike Verizon VA's §§ 12.8.2 and 12.8.5*

The other curious aspect of AT&T's brief relates to the meaning of contract language to which it already has agreed in § 12.1.1. *See* Verizon VA's Brief at Resale-10. The only difference between the agreements proposed by the parties is that AT&T has proposed to delete Verizon VA's proposed §§ 12.8.2 and 12.8.5. AT&T, however, has completely failed to offer any argument or testimony in support of this proposal. For the reasons discussed in Verizon VA's Brief at Resale-10 through -11, and because AT&T has offered no argument in opposition, Verizon VA's proposed §§ 12.8.2 and 12.8.5 should be included in the parties' interconnection agreement.